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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 WEYERHAEUSER COMPANY,

11 Plaintiff,

12 v.

13 NOVAE SYNDICATE 2007, et al.,

14 Defendants.

CASE NO. C18-0585JLR

ORDER SCHEDULING
HEARING

15 The court hereby SCHEDULES a hearing in this matter on Tuesday, August 13,
16 2019, at 10:00 a.m. and DIRECTS Plaintiff Weyerhaeuser Company (“Weyerhaeuser”)
17 and Defendants Novae Syndicate 2007, Apollo Liability Consortium 9984, ANV
18 Casualty Consortium 9148, Scor UK Company Ltd., Starstone Syndicate 1301, Hiscox
19 Dedicated Corporate Member Limited as representative member of Syndicate 33 at

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1 Lloyd's, and Starr Underwriting Agents Ltd. (collectively, "Defendants")¹ to come
2 prepared to discuss the following questions:

3 1. The phrase "actual case or controversy" as used in the Declaratory
4 Judgment act "refers to the type of 'Cases' and 'Controversies' that are justiciable under
5 Article III" of the Constitution. *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 127
6 (2007); *see also* 28 U.S.C. § 2201(a). "This jurisdictional inquiry is concerned with the
7 facts that exist when the plaintiff originally filed its complaint, and if there was not a case
8 or controversy at the time of filing, subsequent events cannot make subject matter
9 jurisdiction proper." *Cisco Sys., Inc. v. Alberta Telecomm. Research Ctr.*, 892 F. Supp.
10 2d 1226, 1230 (N.D. Cal. 2012) (citing *Innovative Therapies, Inc. v. Kinetic Concepts,*
11 *Inc.*, 599 F.3d 1377, 1384 (Fed. Cir. 2010)); *see also Newman-Green, Inc. v.*
12 *Alfonzo-Larrain*, 490 U.S. 826, 830 (1989) ("The existence of federal jurisdiction
13 ordinarily depends on the facts as they exist when the complaint is filed."). In view of
14 the facts that existed at the time Weyerhaeuser filed its complaint, does this case present a
15 justiciable controversy within the meaning of the Declaratory Judgment Act? When
16 assessing justiciability, may the court look to developments since the filing of the
17 complaint?

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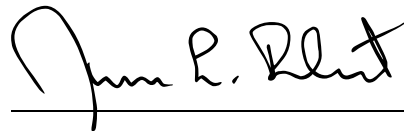
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20 ¹ On July 29, 2019, Novae Syndicate 2007, Apollo Liability Consortium 9984, ANV
21 Casualty Consortium 9148, Scor UK Company Ltd., and Starstone Syndicate 1301 notified the
22 court that "they are close to resolving matters with Weyerhaeuser through settlement." (Resp. to
OSC (Dkt. # 92) at 1.) Should these parties resolve matters before the August 13, 2019, hearing,
such that their presence at the hearing is not warranted, the parties should so indicate through a
filing on the docket.

1 2. If the court determines that this case is nonjusticiable as originally pleaded,
2 how should the court proceed?

3 3. If the court dismisses this case as nonjusticiable, must the court vacate its
4 prior order enjoining Defendants from instituting any action, in any other forum, aimed at
5 determining whether Weyerhaeuser is required to arbitrate coverage disputes under
6 Defendants' excess liability policies? (*See* 5/2/18 Order (Dkt. # 17).)

7 The court cautions the parties that, at the hearing, the court may raise additional
8 questions related to justiciability and Weyerhaeuser's pending motion for summary
9 judgment.

10 Dated this 2nd day of August, 2019.

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13 The Honorable James L. Robart
14 U.S. District Court Judge
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